



IHSS

IN-HOME SUPPORTIVE SERVICES
TRAINING ACADEMY

A PROJECT OF THE SAN DIEGO STATE UNIVERSITY SCHOOL OF SOCIAL WORK

Exemptions

Two exemptions have been established for limited, specific circumstances that allow your maximum weekly hours to be exceeded. These exemptions include the Live-in Family Care Provider exemption, or exemption 1, and the Extraordinary Circumstances exemption, also known as exemption 2. If the recipients you work for are granted either of these exemptions, you as their provider will be allowed to work up to a total of 12 hours a day, and up to 360 hours per month combined for the IHSS recipients, not to exceed each IHSS recipient's monthly authorized hours.

Even if you are granted either exemption, you cannot work more than 360 hours per month. If you work up to these maximum hours for your recipients and your recipients still have IHSS hours left, then your IHSS recipients must hire another provider or providers to work the rest of their IHSS hours.

Exemption 1 – Live-In Family Care Providers

Per ACL 16-07, if you meet the following requirements, you may provide services to two or more live-in family member recipients and work up to 360 hours per month.

1. You must provide IHSS services to two or more IHSS recipients.
2. You must currently live in the same home as the IHSS recipients that you provide services to.
3. You must be related to the IHSS recipients to whom you provide services as his/her parent, stepparent, adoptive parent or grandparent or be his/her legal guardian or conservator.

If you are eligible for exemption 1 the Live-in Family Care Provider exemption, you may need to provide proof of relationship to your recipients (i.e. parent, legal guardian, conservator, adoptive parent, stepparent, or grandparent) and proof of residence.

Some examples of proof of relationship are:

- Birth certificate
- School registration records indicating parent or legal guardianship
- Court order appointing guardian of the minor or conservatorship
- Court order honoring the adoption of the minor

Some examples of proof of residence are:

- Lease or rental agreement
- Mortgage statement
- Property tax bill/statement
- W-2 Form from within the last 12 months

If you meet the three conditions previously listed and are interested in this exemption, you must complete, sign and date the [In Home Supportive Services Program Live-in Family Care Provider Overtime Exemption form \(SOC 2279\)](#) and return it to the California Department of Social Services (CDSS). This form will be reviewed and processed by CDSS. A written notice of eligibility will be sent to you informing you of the outcome of your request.

EXEMPTION 2 – Extraordinary Circumstances

Exemption 2, the Extraordinary Circumstances exemption applies to you if you provide services for two or more recipients whose circumstances put them at serious risk of placement in out-of-home care.

In order to qualify for the Extraordinary Circumstances exemption, all of the recipients you work for must meet at least one of the following conditions:

- A. Have complex medical and/or behavioral needs that must be met by a provider who lives in the same home as the recipient.
- B. Live in a rural or remote area where available providers are limited and as a result the recipient is unable to hire another provider.
- C. Be unable to hire a provider who speaks his/her same language in order to direct his/her own care.

Per ACL 16-22, CDSS defines an extraordinary circumstance as “one in which all possible options for finding another provider to work within the recipients authorized weekly and monthly hours have been **explored and exhausted by both the recipient and the county** and it has been determined that no other provider is available.”

The financial impact that hiring another provider could have on the current provider shall not be a factor for consideration when determining whether an extraordinary circumstance exists.

Two or more recipients in a single home with an excess of 360 hours between them will be required to hire another provider to work the remaining hours beyond the 360 hours allotted to the recipient when the extraordinary circumstance is granted.

For more information regarding the maximum workweek hourly exemptions and their eligibility requirements, contact your local county IHSS office.